

REMARKS

This is in response to the Office Action mailed on October 26, 2006 in which claims 1-8 and 12-18 were rejected. With this Amendment, Applicant has amended claim 1, 3, and 18. The application is now in condition for allowance. Notice to that effect is hereby requested.

Claim Rejections pursuant to 35 U.S.C. § 112

Claims 1, 3, and 18 have been amended. The language as amended is fully supported by the original specification as filed. In as much as claims 1, 3, and 18 have been amended to clarify and overcome antecedent basis deficiencies, any rejections and objections to unamended claim 2, which depends from amended claim 1, and unamended claims 4-8 and 12-13, which depend from amended claim 3 are obviated.

Claims Rejections pursuant to 35 U.S.C. § 102

Claims 1 was rejected under 35 U.S.C. § 102(b) as being unpatentable over White (3,913,641). The White reference teaches a device for cutting trees attached to a tractor. However, White does not disclose every limitation of the current invention as recited in claim 1.

First, claim 1 requires "a first frame member comprising a single non-pivoting stanchion for connecting to the all-terrain vehicle." A stanchion is an upright pole or support. Examiner points to reference numeral 52 in White as disclosure. White details the "carriage 24 includes a generally vertically disposed plate 52 of u-shaped configuration... with two vertically upwardly extending legs 54." See Col. 5, lns 5-10. One of the legs could be referred to as a stanchion, but the reference requires two, and not a single as required by the current claim language.

Examiner also states the current claim language of "a second frame member comprising a single metal tube" is disclosed in White. Examiner points to tube (66; 72, 74) as meeting this limitation. Referring to the specification of White, 66 is a "track frame". The track is comprised of "upper and lower channel-shaped members 72 and 74 having facing, opposed and spaced flanges... are rigidly interconnected by longitudinally spaced lugs 80 thus providing an uninterrupted slot 82." There is no single metal tube in the disclosure. Rather, there are two

channels which are held together with lugs to provide a slot. Using the two channels connected by a third piece does not provide a single tube, and vitiates a required claim limitation.

For a reference to anticipate an invention, the reference must disclose each and every element present in the claims. M.P.E.P. §2131. The identical invention must be shown in as complete detail as is contained in the claim. White is lacking two of the elements as recited in claim 1. Thus, White does not anticipate the current invention.

Claim 14 was rejected under 35 U.S.C. § 102(e) as being anticipated by Ramun (6,994,284). Ramun discloses a multiple tool attachment for demolition equipment. Ramun does not disclose every element required by claims 14-16.

Claim 14 requires “a beam attached to the all-terrain vehicle, the beam extending from the all-terrain vehicle...” Examiner cites to reference numeral 20 as meeting this limitation. Ramun states “The bearing housing 20 includes spaced mounting apertures 22 for attaching the universal body 18...” See Col. 5, lines 51-52. From this, 20 relates to a housing. A housing is used to protect or cover a part. The term beam is used as a structural member. Housings are typically light weight and do not imply structure. Further, the housing 20 in every figure of Ramun contains apertures 22. The apertures are placed in similar location among the various views. Considering that these are used for mounting the housing 20, the housing 20 would not extend from the machine as required by the claim. Thus, Ramun does not include every element of the claim. In view of the allowability of independent claim 14, dependent claims 15 and 16 also stand allowable and the rejection thereof to is obviated.

Claims Rejections pursuant to 35 U.S.C. § 103

Claim 2 was rejected as being unpatentable over White in view of Emery (5,174,098). Although claim 2 is allowable as being dependent on an allowable independent claim as detailed above, applicant also notes that the obviousness rejection was improper. Emery teaches the use of plural power sources. However, White explicitly states “The piston and cylinder assembly 46 is double acting and connected with the hydraulic system of the tractor..” Thus, White teaches away from a dual power source. This is important as the current invention is attached to an ATV. ATV

are small vehicles that typically do not contain a hydraulic system capable of powering implements. This is why there is a separate system disclosed to activate the shear. It is improper to combine references where the references teach away from their combination. M.P.E.P. §2145. Thus, claim 2 is allowable.

Claim 3 was rejected as being unpatentable over White in view of Ramun. The White reference teaches a device for cutting trees attached to a tractor. However, White does not disclose every limitation of the current invention as recited in claim 3.

Claim 3 requires "a first frame member comprising a single stanchion for connecting to the all-terrain vehicle." A stanchion is an upright pole or support. Examiner points to reference numeral 52 in White as disclosure. White details the "carriage 24 includes a generally vertically disposed plate 52 of u-shaped configuration... with two vertically upwardly extending legs 54." See Col. 5, lns 5-10. One of the legs could be referred to as a stanchion, but the reference requires two, and not a single as required by the current claim language. A plate is a relatively wide, flat structure. A plate is not a stanchion, as required by the claims.

Further, one of skill in the art would not look to combine White with Ramun. There is a lack of suggestion to combine the references. To do so, one would have to re-engineer the whole system in White. The cutting assembly of White is based on a sliding frame. A rigid member 64 is mounted to the vehicle, and track frame 66 is mounted about the rigid member. This allows for linear movement of the cutting mechanism. To say that one would modify White would render the teaching and all the claims superfluous. The linear movement and fixed anvil as taught would disappear. Thus, the claimed combination would change the operation of White. M.P.E.P. §2145. In view of the allowability of independent claim 3, dependent claims 4-8 and 12-13 also stand allowable and the rejection thereof to is obviated.

Similarly, in view of the allowability of independent claim 14 as detailed above, dependent claims 17-18 also stand allowable and the rejection thereof to is obviated.

Conclusion

The application is now in condition for allowance. Notice to that effect is hereby requested. The Commissioner is authorized to charge any additional fees associated with this paper or credit any overpayment to Deposit Account No. 11-0982.

Respectfully submitted,

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